

ASSEMBLY BILL

No. 1738

**Introduced by Committee on Local Government (Salinas (Chair),
Emmerson (Vice Chair), De La Torre, Houston, Lieber, Nation,
and Wolk)**

March 2, 2005

An act to amend Section 27395 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1738, as introduced, Committee on Local Government. Electronic recordings: computer security auditors.

The Electronic Recording Delivery Act of 2004 authorizes, among other things, a county recorder, upon approval by a resolution of the board of supervisors and system certification by the Attorney General, to establish an electronic recording delivery system for the delivery and recording of specified digitized and digital electronic records, subject to specified conditions, including system certification, regulation, and oversight by the Attorney General.

The act also requires that a computer security auditor who is hired to perform an independent audit of the electronic recording delivery system shall have access to any aspect of the system. The act also requires that no person may be a computer security auditor or be granted secure access to an electronic recording delivery system if he or she has been convicted of a felony, has been convicted of a misdemeanor related to theft, fraud, or a crime of moral turpitude, or if he or she has pending criminal charges for any of these crimes and requires all persons entrusted with secure access to the system to submit their fingerprints to the Attorney General for a criminal records check pursuant to specified procedures to determine whether they are eligible to have access to an electronic recording delivery system.

This bill would specify that for these purposes a person's criminal history information also includes federal convictions and arrests and would require the Department of Justice to forward requests from the Attorney General to the Federal Bureau of Investigation for this information. The bill would also require the Attorney General to review and compile this information to determine the person's eligibility to have access to an electronic recording delivery system and would authorize the Department of Justice to charge a fee to cover the cost of processing federal criminal offender record information.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27395 of the Government Code is
2 amended to read:
3 27395. (a) No person shall be a computer security auditor or
4 be granted secure access to an electronic recording delivery
5 system if he or she has been convicted of a felony, has been
6 convicted of a misdemeanor related to theft, fraud, or a crime of
7 moral turpitude, or if he or she has pending criminal charges for
8 any of these crimes. A plea of guilty or no contest, a verdict
9 resulting in conviction, or the forfeiture of bail, shall be a
10 conviction within the meaning of this section, irrespective of a
11 subsequent order under Section 1203.4 of the Penal Code.
12 (b) All persons entrusted with secure access to an electronic
13 recording delivery system shall submit fingerprints to the
14 Attorney General for a criminal records check according to
15 regulations adopted pursuant to Section 27393.
16 (c) (1) The Attorney General shall submit to the Department
17 of Justice the fingerprint images and related information of
18 persons with secure access to the electronic recording delivery
19 system and computer security auditors for the purpose of
20 obtaining information as to the existence and nature of a record
21 of ~~state-level~~ *or federal* convictions and arrests for which the
22 Department of Justice establishes that the applicant was released
23 on bail or on his or her own recognizance pending trial.
24 (2) The Department of Justice shall respond to the Attorney
25 General for criminal offender record information requests

1 submitted pursuant to this section, with information as delineated
2 in subdivision (l) of Section 11105 of the Penal Code.

3 (3) *The Department of Justice shall forward requests from the*
4 *Attorney General to the Federal Bureau of Investigation for*
5 *federal summary criminal history information pursuant to this*
6 *section.*

7 (4) *The Attorney General shall review and compile the*
8 *information from the Department of Justice and the Federal*
9 *Bureau of Investigation to determine whether a person is eligible*
10 *to access an electronic recording delivery system pursuant to this*
11 *article.*

12 (5) The Attorney General shall request subsequent arrest
13 notification service, pursuant to Section 11105.2 of the Penal
14 Code, for all persons with secure access to the electronic
15 recording delivery system and all computer security auditors.

16 (d) The Attorney General shall deliver written notification of
17 an individual's ineligibility for access to an electronic recording
18 delivery system to the individual, his or her known employer, the
19 computer security auditor, and the county recorder.

20 (e) The Department of Justice shall charge a fee sufficient to
21 cover the cost of processing ~~the~~ *a state or federal* criminal
22 offender record information request and any other costs incurred
23 pursuant to this section.

24 (f) The Attorney General shall define "secure access" by
25 regulation and by agreement with the county recorder in the
26 system certification.